IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 20314 of 2004

Between:

K. Badraiah, S/o K. Malsoor,
C.P.D. Company of Andhra Pradesh Limited, Jammigadda, Suryapet, Nalgonda District.

..... PETITIONER

AND

1 Chairman and Managing Director, Central Power Distribution Company of Andhra Pradesh Ltd,
Singarani Bhavan, Red Hills, Hyderabad.
2 Superintending Engineer, Electrical CPDC of Andhra Pradesh Limited,
Operation Circle, Nalgonda.
3 Divisional Engineer Electrical, CPDC of Andhra Pradesh Limited,
Alteration Division, Suryapet,
4 Assistant Accounts Officer, Electricity Revenue Officer, Suryapet.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in suspending the Petitioner vide Memo No. DS(Per)/PO-DC/1637-C4/2004-2, dt. 6-10-2004 as illegal, arbitrary, improper and unconstitutional and direct the respondents to reinstate the petitioner in service, forthwith.

Counsel for the Petitioner: MR.A.SAMEER KUMAR

Counsel for the Respondents : MR.SAMINENI KISHORE

The Court made the following :

THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.20314 OF 2004

ORDER:

This writ petition is filed seeking to declare the action of the respondents in suspending the petitioner vide memo No.DS(Per)/PO-DC/1637-C4/2004-2, dated 6.10.2004, as arbitrary and illegal.

The case of the petitioner is that he was suspended by way of impugned order stating that the Inspector of Police, Alwal Police Station, registered a criminal case against him for the offence under Section 304-B of the IPC. He was arrested on 20.8.2004 and was released on bail on 4.9.2004. By invoking Regulation 11 (a)(b) of the A.P.S.E.B.Employees Discipline & Appeal Regulations (for short "Regulations") petitioner was placed under suspension. Several contentions have been raised touching merits of the case leading to the suicide of the daughter-in-law of the petitioner. The grievance of the petitioner is that the Regulation 11 (a)(b) of the Regulations is violative of principles of natural justice, hence the writ petition.

Detailed counter has been filed by the respondents stating that as per Regulation 11(a)(b) of the Regulations, the petitioner was rightly placed under suspension and therefore, the order impugned does not suffer from any incurable irregularities or infirmities and prays to dismiss the writ petition.

It is contended by the learned counsel for the petitioner that the Regulation 11(a)(b) of the Regulations is violative of principles of natural justice and that the case registered against the petitioner, by the police has nothing to do with the discharge of official duties of the petitioner and hence, he prays to set aside the impugned order.

On the other hand, the learned Standing Counsel for respondents contended that as per Regulation 11 (a)(b) of the Regulations the petitioner was placed under

suspension. Inasmuch as no right of the petitioner is infringed and the suspension order is not contrary to any of the provisions, the same cannot be challenged.

The police registered a case in Crime No.266 of 2004 on 19.7.2004 for the offence punishable under Section 304-B IPC against the petitioner and some others and in connection with that case, the petitioner was arrested on 20.8.2004 and he was in judicial custody up to 3.9.2004 and ultimately he was granted bail on 4.9.2004. Regulation 11(a)(b) of the regulations reads as follows:

> " (a) A member of a class of service may be placed under suspension from service, where:-
>
> i. an enquiry into grave charges against his is contemplated, or is pending or
>
> ii. a complaint against him of any criminal offence is under investigation or trial and if such suspension is necessary in the Board's interest.

Under Regulation 11(b) of the Regulations, an employee who is detained in police custody whether on a criminal charges or otherwise, for a period longer than forty-eight hours shall be deemed to have been suspended under this regulation.

Admittedly, the petitioner was in judicial custody for more than 48 hours in respect of the criminal charges. Though the charges levelled against the petitioner has nothing to do with the discharge of his official duties, but as per Regulation 11 (b) of the Regulations he is deemed to have been suspended.

A vague allegation has been made in the affidavit that Regulation 11(b) is violative of principles of natural justice, but the same is not challenged in the writ petition. The petitioner was placed under suspension as per the regulations governing the services of the writ petitioner and as such the same cannot be said to be arbitrary or illegal. Therefore, the writ petition is devoid of merits and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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K.C.BHANU,J

20th June, 2005.

Mdaa

Copy to:

1 Chairman and Managing Director, Central Power Distribution Company of Andhra Pradesh Ltd,
Singarani Bhavan, Red Hills, Hyderabad.
2 Superintending Engineer, Electrical CPDC of Andhra Pradesh Limited,
Operation Circle, Nalgonda.
3 Divisional Engineer Electrical, CPDC of Andhra Pradesh Limited,
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5. Two C.D.copies.